

REMARKS

Claims 1-33 are pending. Applicants request reconsideration and withdrawal of the rejections in view of the following remarks.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,368,045 ("Clement") in view of U.S. Patent No. 5,197,484 ("Kornberg"); Clement in view of Kornberg further in view of U.S. Patent No. 5,921,943 ("Kass"); Clement in view of Kornberg further in view of U.S. Patent No. 5,394,887 ("Haaga"); Clement in view of Kornberg further in view of U.S. Patent No. 6,331,166 ("Burbank"); or Clement in view of Kornberg further in view of U.S. Patent No. 5,649,547 ("Ritchart").

Claims 1-14

Claims 1-14 are directed to medical instruments including a stylet configured such that axial movement of the stylet from the first retracted position to the first extended position causes rotation of the stylet.

The Examiner conceded that Clement does not disclose a medical device with a stylet configured to rotate when moved from a retracted position to an extended position.¹

Kornberg does not remedy the deficiencies of Clement. Kornberg discloses a device with a stylet 58 coaxially received by a cannula 54.² Rotation of driving member 91 causes forward motion of driving pin 94 and attached cannula.³ Kornberg does not disclose either a stylet or a cannula configured such that axial movement causes rotation. Thus, Clement and Kornberg do not disclose all the features of claim 1.

Applicants do not concede that it would be appropriate to modify Clement's device according to Kornberg's disclosure. Even if such a modification were to be made to Clement's device, the resulting device would not have a stylet, coaxially received within a cannula, configured such that axial movement of the stylet causes rotation of the stylet. Rather the resulting device would have a rotating cannula. Even if features of a cannula and a stylet were

¹ See Office Action mailed February 25, 2008, p. 4.

² See Kornberg, FIGS. 11-13 and col. 8, line 63 – col. 10, line 59.

³ See id., col. 14, lines 26-34.

interchangeable (which Applicants do not concede), the resulting device would be configured such that rotation of the stylet would cause axially motion of the stylet. Moreover, Kornberg discloses stylet 58 is fixed in place by pin member 101.⁴ Thus, Kornberg, disclosing a device specifically configured to prevent rotation of a stylet, teaches away from the claimed feature.⁵

Dependent claims 2-14 further distinguish the cited art even if features of a cannula and a stylet were interchangeable. For example, claim 3 specifies that

the stylet block comprises:
a first part inside the housing, the first part being moveable between an extended position and a retracted position; and
a second part attached to the proximal end of the stylet, the second part being rotatably engaged with the first part and being able to rotate relative to an axis of the stylet.

Kornberg discloses a cannula 54 disposed within but not attached to a driving member 91.⁶ In operation, a driving pin 94, secured to cannula 54, exits drive channel 92 defined in driving member 91 such that the driving pin is free to rotate.⁷ Thus, cannula 54 is not attached to driving member 91. Claim 4 further specifies that

the housing comprises a semi-cylindrical portion defining a track configured to engage with the second part.

Kornberg discloses a track 158 which engages driving pin 94.⁸ However, track 158 does not engage driving member 91 (characterized in the Office Action as the "second part").

Similarly, claim 5 further specifies that

the second part comprises:
a projection in contact with a track associated with the housing, the projection and track capable of cooperating to axially rotate the second part and the attached stylet when the stylet is moved between the first extended position and the first retracted position.

As noted above, driving pin 94 is discrete and separate from driving member 91. Thus, driving member 91 does not comprise driving pin 94. Moreover, engagement between driving pin 91 and track 158 causes axial movement of cannula 54⁹ rather than rotation of driving member 91.

Neither Kass nor Haaga cure the deficiencies of Clement and Kornberg.

⁴ See id., col. 9, lines 44-52.

⁵ See, e.g., A reference teaches away if it "would likely discourage the art worker from attempting the substitution suggested by [the inventor/patentee]." *Gillette Co. v. S.C. Johnson & Son, Inc.*, 919 F.2d 720, 16 USPQ2d 1923 (CAFC 1990).

⁶ See Kornberg, col. 9, line 35 – col. 10, line 59 and col. 14, lines 26-34.

⁷ See id., col. 14, lines 35-44.

⁸ See id., FIG. 12 and col. 14, lines 35-44.

⁹ See id., col. 9, line 35 – col. 10, line 59 and col. 14, lines 26-34.

None of Clement, Kornberg, Kass, and Haaga, alone or in combination, discloses or makes obvious the medical instruments covered by claims 1-14. Even if the references were combined, the result would not be the medical devices covered by claims 1-14. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 1-14.

Claims 15-21

Claims 15-21 are directed to methods that include

moving a stylet and a stylet block from a first position to a second position, the stylet block having an axially moveable first part and a second part attached to the stylet, the second part being rotatably engaged with the first part and being able to rotate relative to an axis of the stylet[.]

As discussed above with respect to claims 3 and 5, driving member 91 of Kornberg is not attached to cannula 54. Moreover, driving member 91 rotates (rather than moves with cannula 54 from a first position to a second position).¹⁰ Claim 15 further recites

simultaneously causing rotation of the stylet along an axis of the stylet by contact between the second part of the stylet block and a housing of the medical instrument[.]

As discussed above with respect to claim 1, Kornberg discloses causing rotation of cannula 54 by rotation of driving member 91.¹¹ Contact between driving pin 94 and track 158 causes axial movement of cannula 54¹² rather than rotation of cannula 54 as claimed.

Ritchart does not cure the deficiencies of Clement and Kornberg.

None of Clement, Kornberg, and Ritchart, alone or in combination, discloses or makes obvious the medical instruments covered by claims 15-21. Even if the references were combined, the result would not be the medical devices covered by claims 15-21. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 15-21.

Claims 22-33

As discussed above with respect to claims 1-14, neither Clement nor Kornberg discloses or makes obvious medical instruments with a stylet

being configured to rotate when moved from the first retracted position to the first extended position[.]

¹⁰ See id., FIG. 12, col.9, line 35 – col. 10, line 13, and col.4, line 19 – col. 15, line 15.

¹¹ See id., col. 9, line 35 – col. 10, line 59 and col. 14, lines 26-34.

¹² See id.

Independent claim 22 further recites the feature of a stylet block including

a first part inside the housing, the first part being moveable between a third extended position and a third retracted position; and
a second part attached to the proximal end of the stylet, the second part being rotatably engaged and in contact with the first part and being able to rotate relative to an axis of the stylet.

As discussed above with respect to claims 3 and 5, driving member 91 of Kornberg is not attached to cannula 54.

Dependent claim 24 further specifies that the second part of the stylet block includes

a projection in contact with a track associated with the housing, the projection and track capable of cooperating to axially rotate the second part and the attached stylet when the stylet block is moved between the third extended position and the third retracted position.

As discussed above with respect to claim 5, engagement between driving pin 91 and track 158 causes axial movement of cannula 54¹³ rather than rotation of driving member 91.

Neither Kass nor Haaga cure the deficiencies of Clement and Kornberg.

None of Clement, Kornberg, Kass, and Haaga, alone or in combination, discloses or makes obvious the medical instruments covered by claims 22-33. Even if the references were combined, the result would not be the medical devices covered by claims 22-33. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 22-33.

Conclusion

For at least the foregoing reasons, Applicants respectfully submit that the application is in condition for allowance.

Any circumstance in which the Applicants have (a) addressed certain comments of the Examiner does not mean that the Applicants concede other comments of the Examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the Applicants concede any of the Examiner's positions with respect to that claim or other claims.

¹³ See *id.*

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Page : 11 of 11


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Respectfully submitted,

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